

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARCO SPV LLC,

Plaintiff,

-v-

24 Civ. 5128 (PAE)

XAMIVA LLC and
XAVIER CARLOS VILARO CARO a/k/a XAVIER
VILARO

Defendants.

ORDER

PAUL A. ENGELMAYER, District Judge:

On January 21, 2025, defendant Xavier Carlos Vilaro Caro (“Vilaro”) filed an untimely motion to dismiss the complaint under Rule 12 of the Federal Rules of Civil Procedure. Dkt. 18. On February 27, 2025, Vilaro filed an unopposed motion to deem his motion to dismiss timely filed, Dkt. 21, which the Court granted. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by March 20, 2025. No further opportunities to amend will ordinarily be granted. If plaintiff does amend, by April 10, 2025, Vilaro shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by March 20, 2025. Vilaro’s reply, if any, shall be served by

¹ If Vilaro files a new motion to dismiss or relies on his previous motion, plaintiff’s opposition will be due 14 days thereafter, and Vilaro’s reply, if any, will be due seven days after that.

April 3, 2025. At the time any reply is served, the moving party shall supply the Court with two (2) courtesy copies of all motion papers by mailing or delivering them to the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York 10007.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: March 4, 2025
New York, New York